

Agenda Item: 4
Meeting Date: October 13, 2005

CALIFORNIA BAY-DELTA AUTHORITY

September 8, 2005
650 Capitol Mall, Bay-Delta Room
Sacramento, California

MEETING SUMMARY

CALL TO ORDER AND OPENING REMARKS

1. INTRODUCTION / ESTABLISHMENT OF QUORUM

Public – Paula Daniels, representing the Southern California Region; Alfred Montna, representing the Sacramento Valley Region; Bill Jones, representing the San Joaquin Valley Region; Patrick Johnston, representing the Sacramento-San Joaquin River Delta Region; Marc Holmes, member-at-large; and Daniel Wheeler, member-at-large.

Bay-Delta Public Advisory Committee Representative – Gary Hunt

State –Mike Chrisman, Secretary for Resources; Lester Snow, Director of the Department of Water Resources (DWR); Ryan Broddrick, Director of the Department of Fish and Game (DFG) and designee Diana Jacobs; A.G. Kawamura, Secretary for Food and Agriculture (CDFA), and designee Ken Trott; and Dave Spath, designee for Sandra Shewry, Director of the Department of Health Service

Federal –Susan Ramos for Kirk Rodgers, Regional Director, Mid-Pacific Region, U.S. Bureau of Reclamation (USBR); Mike Aceituno for Rodney McInnis, Regional Administrator, Southwest Region, National Marine Fisheries Services (NOAA Fisheries); Brandon Muncy for Colonel Ronald Light, Sacramento District, U.S. Army Corps of Engineers (USACE); Karen Schwinn for Wayne Nastri, Region IX Administrator, U.S. Environmental Protection (USEPA); and Dan Castleberry for Steve Thompson, Manager of California-Nevada Operations Office, U.S. Fish and Wildlife Service (USFWS).

Ex-Officio – No members were present.

Following roll call, a quorum was established.

2. ADOPTION OF JUNE 8, 2005 and AUGUST 11, 2005 MEETING SUMMARIES

Meeting notes were adopted with the following change to the August 11, 2005 summary: The draft meeting summary stated that "To date \$100 million of public funds have already been spent" on the Battle Creek Salmon and Steelhead Restoration Project. That statement will be corrected to read, "The total cost of the Battle Creek Project will be approximately \$100 million".

3. DIRECTOR'S REPORT

Director Grindstaff began by asking Staff Counsel to provide an update on current litigation involving the California Farm Bureau Federation. One case involving the Environmental Water Account (EWA) has been settled; another case about the application of California Environmental Quality Act (CEQA) may be decided within the next 90 days; and the final one, a Federal case about the application of National Environmental Policy Act (NEPA) is still pending. Director Grindstaff also referred to the impact of Open Meeting Laws on CALFED's Independent Science Boards (ISB). CALFED has advocated legislative action to remove the ISB's from under the purview of State Open Meeting Laws in order to provide a more suitable venue for debate and deliberation by the scientists. The Director also reported that comprehensive hearings had taken place in both the Assembly and Senate on the Pelagic Organism Decline (POD) and that CALFED's testimony was basically the same information presented to the Authority at the last meeting.

4. LEAD SCIENTIST'S REPORT

Steve Ford, CALFED's Deputy Director for Science reported that the recruitment for the Lead Scientist was proceeding on schedule. Advertisements had been posted, and other forms of communication were being prepared. Once final candidates have been selected, interviews are expected to occur by January with candidates being asked to appear before the Authority in February or March. The Science Program expects to organize three review panels this fall. They will focus respectively on the POD, the Operation Criteria and Plan (OCAP) Biological Opinion, and the Environmental Water Account (EWA). Johnnie Moore, former Lead Scientist, is preparing a set of recommendations for new Independent Science Boards. It is expected that a revised format and structure will emerge for the Boards. A new contract for funding is also being prepared.

5. APPROVAL OF 2005-2006 PROGRAM PLANS

Director Grindstaff stated that the Program recommended the approval of seven Program Plans and requested that four Program Plans (Ecosystem Restoration, EWA, Transfers, and Drinking Water Quality) not be approved at this meeting. They would be held-over until the next Authority meeting pending further action on the Plans by the respective implementing agencies. He also reported briefly on the discussions by the Bay-Delta Public Advisory Committee (BDPAC) on the previous day in which it concurred with staff recommendations regarding the plans.

Watershed – This program plan was described as one of the better ones and was easy to follow. Director Grindstaff stated that this program, having a broader statewide focus than other CALFED programs, may be better served if moved to a different agency.

Storage – It was reported that groundwater storage has gone well, while surface storage actions have not advanced at the same pace. Despite the delays, the program has tangible accomplishments.

Conveyance – This program element is behind schedule, particularly in regard to actions on permanent operable barriers and the move to 8500 cfs. In part, these delays have been impacted by the POD, but both actions are integral parts of the South Delta Improvements Program (SDIP). DWR expects to release a draft Environmental Impact Report/Environmental Impact Study (EIR/EIS) on SDIP in the near future. Authority members expressed concerns about the delays in the Conveyance Program, but also expressed concerns over the impact of not approving this plan. It was decided to add Conveyance to the list of programs to be held-over until the next Authority meeting. Staff is expected to revise the plan by adding appropriate language reflecting the linkage between the move to 8500 cfs and the POD.

Water Use Efficiency – Authority members expressed concerns about the future direction of this program. In particular, they discussed the need for finding better measurement and certification tools for WUE actions.

Levees – This plan was the subject of extensive BDPAC discussions on the appropriate level of funding for adequate levee protection, particularly in light of the flooding as a result of Hurricane Katrina. Support was expressed for the DWR Delta Risk Management Study (DRMS), as well as calling for more action from Federal partners to assist in those efforts. Secretary Chrisman informed the Authority that levee protection was one of the top priority issues in Governor's Office. Current legislation is pending to provide for increased expenditures for levee protection and an effort is now underway to prioritize the most vulnerable levees.

There was no discussion on either the Science or Oversight and Coordination Program Plans.

Approved plans – Watersheds, Storage, WUE, Levees, Science, and Oversight and Coordination

Held-Over plans – Transfers, EWA, ERP, DWQ, and Conveyance

Director Grindstaff informed the Authority that the held-over plans would be reviewed at the next meeting, but stated that if any plans are ultimately disapproved they will require a report to the Legislature and also be sent back to their respective implementing agencies for further action or inaction as deemed appropriate by that agency.

In response to a question about the impact of disapprovals on program balance, Director Joe Grindstaff reported that the disapproval of any plans would likely affect discussions to be held on the question of balance, but since the balance inquiry is more of a look-back, and the plan disapprovals is more of a look forward, the two issues would not be linked in any formal manner.

6. REVITALIZING CALFED

The first issue under discussion was that of the role of BDPAC. It was announced at the previous day's BDPAC meeting that in light of the Federal Advisory Committee Act (FACA) charter renewal, certain changes were put in place for BDPAC. The main change involved the reporting mechanism for BDPAC. Under the new FACA charter, BDAPC is no longer advisory to the Authority. BDPAC is now advisory to the Secretary of the Interior, through the Designated Federal Official, the Director of the Mid-Pacific Region of USBR. This change was made in order to make BDPAC "FACA-compliant". It shall remain a forum for stakeholder input; and as such, its basic functions are unchanged. USBR reported that these changes "elevate" the importance of BDPAC, while providing a needed refocus of its mission. Chairman Hunt stated that this change returns BDAPC to its original historical role and will allow the Authority to act more independently. As a part of this change, Chairman Hunt informed members that they can expect more formal reporting from BDPAC at future Authority meetings. Patrick Johnston then directed a series of questions to the USBR representatives seeking to better understand why the changes to BDPAC were necessary. Several Authority members appeared to need further clarification on the changes and their impact on both entities. It was decided to have a formal agenda item at the next meeting to present the revised BDPAC charter and address some of the specific questions raised both at the BDAPC and Authority meetings on this subject.

Independent Review

Department of Finance (DOF) – Erica Sperbeck provided an overview of Department of Finance's (DOF) work thus far. She reported that it was premature to present any findings at this meeting, but did express the view that DOF has found that the essential mission was of a complex nature requiring them to limit their initial scope to now focus the programmatic review solely on the status of program implementation. They are attempting to assess program effectiveness and have been sharing the information they have found with both the Little Hoover Commission (LHC) and the independent consultant KPMG. The independent fiscal review is also a challenging task because of the subjective nature of determining the status of Record of Decision (ROD) activities, commitments and tasks. DOF will issue two separate reviews (program and fiscal) by mid-September.

Little Hoover Commission (LHC) – Jim Mayer reported that by working with information garnered from more than 50 in-depth interviews and 50 electronic surveys, along with one public hearing to date, the LHC has produced one summary document and anticipates two more. The first document entitled, "CALFED Governance Issues," identifies key issues as raised by the responses to interviews and surveys. The next step is to assess what the governance structure needs to do in order to move forward

based on the information LHC has already received. The final step will be to take a look at alternatives and recommendations for going forward. Chairman Hunt then praised the LHC for the work they have already done and strongly encouraged each Authority member to carefully read the first report. He also requested that Mr. Mayer work with Director Grindstaff and staff in order to return to the meeting with a more in-depth presentation on LHC's work. He would like to give Authority members a fuller opportunity to comment on the LHC reports.

KPMG – Bryan Gillgrass reported that the principal focus of KPMG is to look at CALFED's internal business processes. They are doing this in three explicit ways. First, they will determine and assess the expectations and priorities of the stakeholders. Second, they will initiate a web-based survey for the larger CALFED "community". Third, they will work to support the other CALFED refocusing efforts. KPMG expects to have all their deliverables completed by November 30.

Director Grindstaff then initiated a discussion with Authority members on how the three independent review efforts relate to the broader refocusing effort. He suggested that the process is helping to shape discussions in the priorities workgroup, in particular by helping to determine what are "core" CALFED activities. At this point there seems to be consensus on the following as being core to the Program:

- Ecosystem program related to native anadromous fish, non-native invasive species, and Delta pelagic fish
- EWA
- Delta-focused water quality
- Delta-focused conveyance
- Science program
- Surface storage studies

There also appears to be an emerging consensus that Watershed and Water Transfer Programs are "not core" CALFED activities.

The differing views on what is "core" seems to focus around the following activities:

- WUE
- Water Quality
- Oversight and Coordination

In addressing members concerns about Regulatory Commitments / User Contributions (RCUC), Director Grindstaff referred to CALFED's plan to convene a series of meetings with principals and technical teams to negotiate in a facilitated framework to address the issue. There is a November 4, 2005 deadline in order to integrate the results into a finance plan requested by the Legislature. Some Authority members also cautioned CALFED to make certain that this effort includes a comprehensive discussion on the CALFED Finance Plan so that the intended beneficiaries under CALFED finance are also part of the deliberation and negotiation process on any RCUC discussions.

7. PUBLIC COMMENT

Steve Macauley (BDPAC) commented that the question of what is or is not “core” is of great significance to the future of the CALFED Program and must be fully coordinated among Program staff, BDPAC and the Authority.

Steve Otomuller, a consultant, commented that WUE must be considered as one of the core aspects of the CALFED program. He described it as essential to every other program and one deserving of greater attention by CALFED in the current refocusing efforts.

ADJOURNMENT

Chairman Hunt adjourned the meeting at 12:25 p.m. The next Authority meeting is scheduled October 12, 2005.